## City of Miami Beach - City Commission Meeting Commission Chambers, 3rd Floor, City Hall 1700 Convention Center Drive April 20, 2005

Mayor David Dermer Vice-Mayor Luis R. Garcia, Jr. Commissioner Matti Herrera Bower Commissioner Simon Cruz Commissioner Saul Gross Commissioner Jose Smith Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez City Attorney Murray H. Dubbin City Clerk Robert E. Parcher

#### ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

## **ADDENDUM**

#### **R5 - Ordinances**

An Ordinance Amending Chapter 70 Of The Code Of The City Of Miami Beach, Entitled "Miscellaneous Offenses," To Create Article VI, To Be Entitled "Sex Offenders" And Creating Section 70-400, Entitled "Sex Offender Residency Prohibition," Providing For A Prohibition From Sex Offenders Convicted Of Crimes Under Certain Florida Statutes From Living Within 2500 Feet Of Specified Locations Within The City Of Miami Beach; Providing For Codification, Repealer, Severability, And An Effective Date.

(Requested by Mayor David Dermer)

# R9 - New Business and Commission Requests

R9K Discussion Regarding A Resolution Opposing The Funding Cap On The SHIP Program By Tallahassee.

(Requested by Commissioner Matti Herrera Bower)

# CITY OF MIAMI BEACH OFFICE OF THE CITY ATTORNEY

## **MEMORANDUM**

TO:

Jorge M. Gonzalez

City Manager

FROM:

Murray H. Dubbin !

City Attorney

SUBJECT:

Ordinance Amending Chapter 70 of the Code of the City of Miami Beach, entitled "Miscellaneous Offenses," to create Article VI, to be entitled "Sex Offenders" and creating Section 70-400, entitled "Sex Offender Residency Prohibition," providing for a prohibition from sex offenders convicted of crimes under certain Florida Statutes from living within 2500 feet of specified

locations within the City of Miami Beach

DATE:

April 18, 2005

Mayor Dermer has requested that the attached agenda item R9H from the April 20, 2005 City Commission agenda be heard on first reading; a 5/7<sup>th</sup> vote of the City Commission is needed in order for this matter to be heard on first reading as an emergency item.

R9H Discussion And Referral To The Neighborhood/Community Affairs Committee Regarding An Ordinance Amending Chapter 70 Of The Code Of The City Of Miami Beach, Entitled "Miscellaneous Offenses," To Create Article VI, To Be Entitled "Sex Offenders" And Creating Section 70-400, Entitled "Sex Offender Residency Prohibition," Providing For A Prohibition From Sex Offenders Convicted Of Crimes Under Certain Florida Statutes From Living Within 2500 Feet Of Specified Locations Within The City Of Miami Beach; Providing For Codification, Repealer, Severability, And An Effective Date.



Ci Bob. Don Tim Lilici

# CITY OF MIAMI BEACH OFFICE OF THE MAYOR & COMMISSION MEMORANDUM

TO:

**JORGE M. GONZALEZ** 

**CITY MANAGER** 

FROM:

DAVID DERMAR

**MAYOR** 

DATE:

**APRIL 14, 2005** 

RE:

**DISTANCE SEPARATION** 

Please place on the 4/20/05 City Commission Agenda for first reading and referral to the Neighborhood/Community Affairs Committee prior to second reading.

Attached is a proposed ordinance which would mandate that designated sexual offenders reside at least 2,500 feet from schools, daycare centers, parks, playgrounds or any other areas where children congregate.

Agenda Item R9H

Date 4-20-05

ORD	INA	NCE	NO.	
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MAYOR AND AN **ORDINANCE** OF THE COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF ENTITLED BEACH, **OF** MIAMI THE CITY "MISCELLANEOUS OFFENSES," TO CREATE ARTICLE TO BE ENTITLED "SEX OFFENDERS" "SEX 70-400, SECTION CREATING OFFENDER RESIDENCY PROHIBITION," PROVIDING PROHIBITION FROM SEX CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES FROM LIVING WITHIN 2500 FEET OF SPECIFIED LOCATIONS WITHIN THE CITY OF MIAMI BEACH; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission of the City of Miami Beach are deeply concerned about the numerous recent occurrences in our state and elsewhere, whereby convicted sex offenders who have been released from custody repeat the unlawful acts for which they had originally been convicted; and,

WHEREAS, the Mayor and City Commission of the City of Miami Beach find from the evidence the recidivism rate for released sex offenders is alarmingly high, especially for those who commit their crimes on children; and,

WHEREAS, the City is becoming an increasingly attractive place of residence for younger families with small children; and,

WHEREAS, the Mayor and City Commission of the City of Miami Beach desire to establish policy which provides the maximum protection of the lives and persons in the City of Miami Beach; and,

WHEREAS, Article VIII, Section 2(b), Florida Constitution and §166.021, Fla. Stat., provide the City authority to protect the health, safety and welfare of its residents;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

**SECTION 1.** That Chapter 70 of the Code of the City of Miami Beach entitled "Miscellaneous Offenses" be amended to read:

#### ARTICLE VI. SEX OFFENDERS

Sec. 70-400. Sex offender residency prohibition.

- (a) It is unlawful for any person who has been convicted of a violation of §§794.011, 800.04, 827.071, or 847.0145, Fla. Stat., regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to reside within 2,500 feet of any school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate.
- (b) A person who violates this section and whose conviction under §§794.011, 800.04, 827.071, or 847.0145, Fla. Stat., was classified as a felony of the third degree, second degree, first degree or higher, shall be punished by a fine not exceeding \$500.00 or by imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment; for a second or subsequent conviction of a violation of this section, such person shall be punished by a fine not to exceed \$1,000.00 or imprisonment in the county jail not more than 12 months, or by both such fine and imprisonment.
- (c) This section applies to any person convicted of a violation of §§794.011, 800.04, 827.071, or 847.0145, Fla. Stat., for offenses that occur on or after October 1, 2004.

#### SECTION 2. REPEALER

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

#### SECTION 3. SEVERABILITY

If any section, subsection or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

#### **SECTION 4. CODIFICATION**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

#### SECTION 5. EFFECTIVE DATE

This ordinance shall take effect on the	day of	, 2005.
PASSED AND ADOPTED this	day of	, 2005.
ATTEST:	FORM	MAYOR  OVED AS TO  1 & LANGUAGE
CITY CLERK	& POI	EXECUTION:  4-15-05  Orrier  Date



# CITY OF MIAMI BEACH

# Office of the Mayor and Commission Memorandum

To:

**MURRAY DUBBIN** 

**CITY ATTORNEY** 

Cc:

**JORGE GONZALEZ** 

**CITY MANAGER** 

From: MATTI H. BOWER

COMMISSIONER

Date: April 18, 2005

AGENDA ITEM- RESOLUTION TO PRESERVE THE SHIP PROGRAM Re:

Please create a resolution opposing the funding cap on the SHIP program by Tallahassee. The SHIP Program is a housing trust that receives funding for affordable housing through real estate taxes. The legislature is proposing placing a cap on the amount of funds that the program can receive which will limit its ability to provide affordable housing at the service level it currently provides.

MHB/as

CITY MAMAGERS OFFICE

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BECEIAED

Agenda Item Date 4-

RESOLUTION	NO.	

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, OPPOSING THE ESTABLISHMENT OF A DISTRIBUTION CAP ON THE HOUSING TRUST FUNDS BY THE FLORIDA LEGISLATURE, WHICH WOULD SIGNIFICANTLY DECREASE THE NUMBER OF LOW TO MODERATE-INCOME INDIVIDUALS AND FAMILIES THAT CAN OBTAIN AFFORDABLE HOUSING IN MIAMI BEACH.

WHEREAS, the Florida State Housing Initiatives Partnership (SHIP) Program is created for the purpose of providing funds to counties and eligible municipalities as an incentive for the creation of local housing partnerships, to expand production of and preserve affordable housing, to further the housing element of the local government comprehensive plan specific to affordable housing, and to increase housing-related employment, and;

WHEREAS, the City of Miami Beach has utilized SHIP funds for over 10 years to provide homes to approximately 225 low to moderate-income first time home buyers in Miami Beach, and;

WHEREAS, the SHIP Program is a vital tool in providing in downpayment assistance to first-time homebuyers and would severely decrease the number of persons that could be assisted if State funding is reduced or maintained at current levels, and;

WHEREAS, Florida law requires that a dedicated 20 cents of documentary tax revenue generated in a given year be distributed to the Housing Trust Funds which have been utilized over the years in creative programs that leverage public dollars with private investment, create workforce housing (over 150,000 families assisted statewide since 1992), and provide significant stimulation to the economy, and;

WHEREAS, the Florida legislature appropriated the full 20 cents of documentary tax revenue every year from FY1992-93 through FY 2002-03 and reduced the funding levels to \$193 million in FY 2003-04 and FY 2004-05; and

WHEREAS, the Florida legislature is now considering permanently capping the distribution of Housing Trust Funds in FY 2006-07 at \$193 million although the current revenue estimate of that distribution for FY 2005-06 is \$375.5 million; and

WHEREAS, housing costs throughout Florida have risen dramatically over the past 5 years, and the average cost of an existing home in Florida increased by 71% while the average household income during that same period increased by less than 10%, and;

WHEREAS, capping housing trust funds would be a huge step backwards for working families, such as teachers, police officers, firefighters, hospital employees, and service workers struggling to find housing within their means in the communities they serve, and;

WHEREAS, if the cap is set at an amount that is so far below today's need for funding the difference between income and housing prices, our community will continue to fall deeper into the housing crisis that is now affecting every large county and urban/suburban city in Florida, and

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and Commission opposes the establishment of a distribution cap on the Housing Trust Funds by the Florida legislature, which would significantly decrease the number of low to moderate-income individuals and families that can obtain affordable housing in Miami Beach.

PASSED AND ADOPTED this day of	, 2005.
ATTEST:	MAYOR
CITY CLERK	APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION
JMG/RCM/VG/TU/jfq	& FOR EXECUTION
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